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April 2, 2008

The Honorable Charles Terreni  
Chief Clerk of the Commission  
Public Service Commission of South Carolina  
Post Office Drawer 11649  
Columbia, South Carolina 29211

Re: Rulemaking Regarding Prepaid Telecommunications Local Services  
Docket No. 2007-400-C

Dear Mr. Terreni:

BellSouth Telecommunications Inc. d/b/a AT&T South Carolina ("AT&T South Carolina") respectfully encloses for filing AT&T South Carolina's Initial Comments in the above-referenced matter.

By copy of this letter, I am serving all parties of record with a copy of these Comments as indicated on the attached Certificate of Service.

Sincerely,

Patrick W. Turner

PWT/nml  
Enclosure  
cc: All Parties of Record  
DM5 #708419

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

IN RE:	)	
	)	
Rulemaking Regarding Prepaid	)	
Telecommunications Local Services	)	Docket No. 2007-400-C
	)	
_____	)	

**AT&T SOUTH CAROLINA’S INITIAL COMMENTS  
ON PROPOSED REGULATION**

On behalf of itself and affiliated entities, BellSouth Telecommunications, Inc. d/b/a AT&T South Carolina (“AT&T South Carolina”) respectfully submits these initial comments<sup>1</sup> to the Proposed Regulation filed with the South Carolina Legislative Council on February 8, 2008.

**A. The Commission Should Not Adopt the Proposed Regulation Because it Would Place Telephone Utilities at a Competitive Disadvantage Vis-à-Vis Other Providers of Prepaid Communications Services.**

As an initial matter, AT&T notes that the Proposed Regulation would apply only to regulated services offered on a prepaid basis by telephone utilities. However, many companies that are not telephone utilities offer unregulated communications services (including wireless services) on a prepaid basis. Imposing security mechanism requirements on regulated services offered on a prepaid basis by telephone utilities would

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<sup>1</sup> AT&T South Carolina, of course, reserves the right to submit further comments as it considers the submissions of other parties in the course of this proceeding. Additionally, in recent rulemaking proceedings, the Commission’s Staff has held workshops with the parties after the submission of initial comments. These workshops have led to consensus ORS and industry recommendations on many issues, and they helped define and narrow the scope of the few issues that were subject to disagreement. AT&T South Carolina, therefore, respectfully suggests that the Commission consider having its Staff conduct similar workshops at an appropriate time in this proceeding.

place those utilities at a competitive disadvantage vis-à-vis other providers of prepaid communications services (such as wireless companies) that are not subject to such requirements. AT&T, therefore, submits that the Public Service Commission of South Carolina (“the Commission”) should not adopt such requirements.

**B. In the Alternative, AT&T South Carolina Suggests that the Commission Consider Certain Amendments to the Proposed Regulation.**

If the Commission disagrees and decides to adopt some form of security mechanism requirements in this proceeding, AT&T South Carolina respectfully requests that the Commission consider amending the Proposed Regulation as set forth below.

**1. Clarification of the Scope of the Proposed Regulation**

The Commission’s rules and regulations do not apply to any person or entity that is not a telephone utility operating under the jurisdiction of the Commission,<sup>2</sup> and they do not apply to any offerings that are not subject to regulation by the Commission.<sup>3</sup> AT&T South Carolina, therefore, suggests the following amendments to the title of the Proposed Regulation to clarify that it applies only to the regulated local exchange services of telephone utilities that are subject to the Commission’s jurisdiction:

103-607 Regulation Governing Telephone Utilities Offering Regulated  
Prepaid Local Telecommunications Carriers Exchange Services and Bonds  
or Other Security Mechanisms

For similar reasons, AT&T South Carolina suggests changing references to “carriers” to “telephone utilities” throughout the Proposed Regulation.<sup>4</sup>

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<sup>2</sup> See S.C. Code Ann. §58-9-10(6); Commission Regulation 103-601.1; 103-602.10.

<sup>3</sup> See, e.g., S.C. Code Ann. §§58-9-280(G)(1)(b); 58-9-285(B); 58-9-297(B); 58-11-100(B).

<sup>4</sup> This suggestion is reflected in the redline to the Proposed Regulation that is attached as Exhibit A to these Initial Comments.

## **2. Clarification that the Proposed Regulation Applies Only to Retail Services.**

Verizon has submitted its view that any security mechanisms the Commission may adopt in this proceeding “should not interfere with ILEC-CLEC interconnection agreements and contractual relationships, in particular as they relate to ILECs’ rights to request adequate assurance, letters of credit or deposits.”<sup>5</sup> AT&T South Carolina agrees with Verizon and suggests that the Commission consider the following amendment to clarify that the Proposed Regulation has no impact on interconnection agreements between ILECs and CLECs:

This regulation applies to ~~telecommunications carrier~~telephone utilities who provide retail prepaid local exchange services (requiring advance payment from customers prior to providing telecommunications service) and who have not invested at least five million dollars in telecommunications facilities in the State of South Carolina.

## **3. Elimination of a Waiver Based on UNE Leases.**

AT&T South Carolina supports the provisions in the Proposed Regulation that allow the Commission to waive any applicable security mechanism requirement if a telephone utility provides evidence of financial stability as deemed appropriate by the Commission. AT&T South Carolina, however, respectfully suggests that the Commission consider the following amendments to eliminate UNE leases as a basis for granting such a waiver:

The Commission may waive this requirement upon petition by the ~~carrier telephone utility~~ if the ~~carrier telephone utility~~ provides ~~evidence of unbundled network element (UNE) leases during the prior calendar year exceeding \$500,000 or other~~ evidence of financial stability as deemed appropriate by the Commission.

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<sup>5</sup> See Letter dated December 20, 2007 in Docket No. 2007-400-C.

In this context, UNE leases are payments that the utility owes the ILEC from which it leases UNEs. As such, UNE leases provide no evidence whatsoever of the utility's financial stability or of its ability to make good on any amounts it may owe its retail customers. To the contrary, in this context, UNE leases represent potential claims against the utility that could compete with the claims of the utility's retail customers.

**4. Elimination of “Office in the State” or “Authorized to Do Business in the State” Provisions.**

AT&T South Carolina suggests that the Commission consider eliminating the “office in the state” or “authorized to do business in the state” requirements in the provisions addressing Performance Bonds, Irrevocable Letters of Credit, and/or Certificates of Deposit. Subsection c. of the Proposed Regulation, for instance, provides that an irrevocable letter of credit must be issued by a financial institution authorized to do business in South Carolina. To the extent that an affiliate of AT&T South Carolina might be required to provide an irrevocable letter of credit pursuant to the Proposed Regulation, that affiliate might seek to obtain one from a large global financial institution like the Bank of Tokyo-Mitsubishi, Citigroup, or JP Morgan Chase (which are AT&T's normal issuing banks for such matters). Obtaining a letter of credit from such an institution likely would be far less expensive for the affiliate than obtaining one from a different institution, and AT&T South Carolina respectfully suggests that the Proposed Regulation should not flatly prohibit the affiliate from doing so in the event that such a world-renowned financial institution may not be authorized to do business in South Carolina.

AT&T South Carolina, therefore, suggests eliminating the “Office in the State” or “Authorized to Do Business in the State” provisions of subsections a, c, and d of the

Proposed Regulation and replacing them with “acceptable to the Commission” provisions.<sup>6</sup>

**5. Permit the Use of Commercially Acceptable Methods in Calculating Amounts of Security Mechanisms and Eliminating Minimum Amounts of Security Mechanisms.**

Subsections a, b, c, and d of the Proposed Regulation describe factors the Commission may consider in determining the amounts of security mechanisms and/or establishing minimum amounts of security mechanisms. AT&T South Carolina suggests that the Commission consider amending these provisions to allow the Commission to use “any commercially acceptable method” of determining such amounts, including without limitation the specific factors set forth in the Proposed Regulation. This is consistent with the approach taken in existing Commission regulations,<sup>7</sup> and it allows the Commission more flexibility in determining these matters. Similarly, AT&T South Carolina suggests eliminating a pre-determined minimum amount for security mechanisms in order to provide the Commission more flexibility in determining these matters in light of the facts of a particular case.<sup>8</sup>

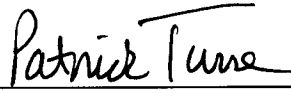
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<sup>6</sup> This suggestion is reflected in the redline to the Proposed Regulation that is attached as Exhibit A to these Initial Comments.

<sup>7</sup> See, e.g., Commission Regulation 103-621.A.5 (Allowing a telephone utility to require a deposit if one of four specific criteria apply or if “the utility determines, through commercially acceptable methods, that the customer’s credit and financial condition so warrants.”).

<sup>8</sup> These suggestions are reflected in the redline to the Proposed Regulation that is attached as Exhibit A to these Initial Comments.

Respectfully submitted this 2nd day of April, 2008.

A handwritten signature in black ink that reads "Patrick W. Turner". The signature is written in a cursive style with a horizontal line extending from the end of the name.

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ATTORNEY FOR AT&T  
SOUTH CAROLINA

707844

**EXHIBIT A TO AT&T SOUTH CAROLINA'S  
INITIAL COMMENTS TO PROPOSED REGULATION**

103-607 Regulation Governing Telephone Utilities Offering Regulated ~~Prepaid Local Telecommunications Carriers~~Exchange Services and Bonds or Other Security Mechanisms

This regulation applies to ~~telecommunications carriers~~telephone utilities who provide retail prepaid local exchange services (requiring advance payment from customers prior to providing telecommunications service) and who have not invested at least five million dollars in telecommunications facilities in the State of South Carolina. Advance payments include, but are not limited to, deposits, prepaid monthly service, and prepaid calling cards. The Commission may waive this requirement upon petition by the ~~carrier~~telephone utility if the ~~carrier~~telephone utility provides ~~evidence of unbundled network element (UNE) leases during the prior calendar year exceeding \$500,000 or other~~ evidence of financial stability as deemed appropriate by the Commission.

If a ~~carrier~~telephone utility that is subject to this regulation requires prepayment for service, the Commission shall determine the type and the amount of bond or other security mechanism to be filed by the ~~carrier~~telephone utility with the Commission and the ORS. The Commission may order the ~~carrier~~telephone utility to file a performance bond, establish an escrow account, or post an irrevocable letter of credit or certificate of deposit.

a. Performance Bond. Performance bonds must be issued by an A-grade insurer that is acceptable to the Commission ~~having an office in the State of South Carolina~~ and must be posted with the Commission prior to offering prepaid service. In determining the amount of the bond, the Commission may use commercially acceptable methods including, without limitation, consideration of the number of customers served by the ~~carrier~~telephone utility multiplied by the retail price for the prepaid service. ~~However, the amount of the bond shall be no less than \$100,000.~~

b. Escrow Account. An escrow account shall not be a part of the ~~carrier's~~telephone utility's standard business account. Further, the escrow agent shall not be employed by or have any business affiliation with the ~~carrier~~telephone utility. In determining the amount to require in the escrow account, ~~The Commission may use commercially acceptable methods including, without limitation, require the account to equal the proposed monthly service multiplied by the number of customers served by the carrier-telephone utility or an amount equal to the annual prepayments collected as of July 1st or December 31st.~~ The Commission may ~~and~~ require the filing of monthly reports showing escrow account activity.

c. Irrevocable Letter of Credit. An irrevocable letter of credit shall be issued by a financial institution acceptable to the Commission ~~authorized to do business in South Carolina.~~ The amount of the irrevocable letter of credit shall be determined by the



Commission using commercially acceptable methods. ; ~~however, the amount of the letter of credit shall be no less than \$100,000.~~ An updated irrevocable letter of credit shall be filed with the Commission annually.

d. Certificate of Deposit. The certificate of deposit shall be issued by a financial institution acceptable to the Commission. ~~authorized to do business in South Carolina and shall be no less than \$50,000.~~ In determining the amount of the certificate of deposit, the Commission may use commercially acceptable methods including, without limitation, ~~, at a minimum, the following criteria: consideration of the~~ number of customers, retail price for prepaid service, and financial resources of the ~~carrier~~ telephone utility.

STATE OF SOUTH CAROLINA                    )  
  )  
COUNTY OF RICHLAND                    )        CERTIFICATE OF SERVICE

The undersigned, Nyla M. Laney, hereby certifies that she is employed by the Legal Department for AT&T South Carolina (“AT&T”) and that she has caused AT&T South Carolina’s Initial Comments on Proposed Regulation in Docket No. 2007-400-C to be served upon the following on April 2, 2008:

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